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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,609	08/29/2001	Jeffery C. Beman	MSFT117256	1937
26389	7590	08/10/2006	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			LAstra, DANIEL	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3622	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,609

Applicant(s)

BEMAN ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-49 have been examined. Application 09/943,609 (SYSTEM AND METHOD FOR ESTIMATING AVAILABLE PAYLOAD INVENTORY) has a filing date 08/29/2001

Claim Objections

2. Claims 16, 17, 31, 32 are objected to because the recite computer-readable medium and system claims that are dependent of method claims. Claims 31 and 32 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16, 17, 31 and 32 are rejected under 35 U.S.C. 101 because based on the theory that the claim is directed to neither a "computer readable medium" nor a "system" or "method" but rather embraces or overlaps three different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. *Id.* at 1551.

Claims 1-49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is set forth in whether the invention produces a useful, concrete, and tangible result. In the present

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application, claims 1-49 do not recite a "useful, concrete and tangible result". The claims are simply generating an array of data without any practical application to said data.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16, 17, 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A single claim which claims both a computer-readable medium, a system and the method steps of using said medium is indefinite under 35 U.S.C. 112, second paragraph. In *Ex parte Lyell*, 17. USPQ2d 1548 (Bd. Pat. App. & Inter. 1990).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8-13, 16-25, 33-41 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Shkedi (US 2005/0246231).

As per claims 1, 18 and 34, Shkedi teaches:

A method for processing payload requests, the method comprising:

obtaining a set of criteria for delivering at least one payload, the set of criteria including one or more criterion (see paragraph 79);

generating a set of arrays corresponding to each criterion in the set of criteria, the set of arrays including a plurality of array elements corresponding to periods of time (see paragraphs 93, 165-166);

obtaining a request for a payload, the payload request including a set of request having one or more criterion wherein the payload request is associated with a time (see paragraphs 90, 281); and

incrementing a numerical identifier in the set of arrays corresponding to the time associated with the payload request (see paragraphs 102, 225-226).

As per claim 2, Shkedi teaches:

The method as recited in Claim 1, wherein generating a set of arrays corresponding to each criteria in the set of criteria includes:

parsing the set of criteria in a particular order (see paragraph 166); and

generating a set of arrays in an order corresponding to the particular order of the set criteria (see paragraph 166).

As per claims 8, 19 and 35, Shkedi teaches:

The method as recited in Claim 1, wherein the payload is an advertisement from an advertisement campaign (see paragraph 150).

As per claims 9, 20 and 36, Shkedi teaches:

The method as recited in Claim 8, wherein the set of payload criteria includes user demographic information (see paragraph 94).

As per claims 10, 21 and 37, Shkedi teaches:

The method as recited in Claim 9, wherein the user demographic information includes a user age (see paragraph 94).

As per claims 11, 22 and 38, Shkedi teaches:

The method as recited in Claim 9, wherein the user demographic information includes a user gender (see paragraph 94).

As per claims 12, 23 and 39, Shkedi teaches:

The method as recited in Claim 8, wherein the set of payload criteria includes one or more keywords (see paragraph 90).

As per claims 13, 24 and 40, Shkedi teaches:

The method as recited in Claim 8, wherein the set of payload criteria includes an identifier of a content provider (see paragraph 90).

As per claim 16, Shkedi teaches:

A computer-readable medium having computer-executable instructions operable to perform the method recited in Claim 1 (see paragraph 65).

As per claim 17, Shkedi teaches:

A computer system having a processor, a memory and an operating environment, the computer system operable for performing the method recited in Claim 1 (see paragraph 65).

As per claims 25 and 41, Shkedi teaches:

The system as recited in Claim 18 further comprising a user information store operable to obtain a user identifier and provide user identifier criteria to the set of payload request criteria (see paragraph 94).

As per claims 33 and 49, Shkedi teaches:

The system as recited in Claim 18, wherein the payload manager is operable to generate advertisement campaign compliance data by processing the data within the set of arrays (see paragraph 150).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7, 26-30 and 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedi (US 2005/0246231) in view of Thurston (WO 01/001318).

As per claims 3, 26 and 44, Shkedi teaches:

The method as recited in Claim 1 but fails to teach further comprising processing the numerical identifiers in the set of arrays to predict an estimated number of future payload requests. However, Thurston teaches a system, which forecast advertisements requests based upon users' historical activities (see page 8, lines 13-16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Shkedi would use the users' historical activity

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request, as taught by Thurston in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

As per claim 4, Shkedi teaches:

The method as recited in Claim 3, but fails to teach wherein the processing includes applying a trend analysis. However, Thurston teaches a system which uses trend analysis to forecast future advertisements requests (see page 10, lines 20-25). Therefore, the same argument made in claim 3 regarding this missing limitation is also made in claim 4.

As per claims 5, 6, 7, 28, 29, 30, 46, 47 and 48, Shkedi teaches:

The method as recited in Claim 4, but fails to teach wherein the trend analysis includes a least-squared trend analysis or linear trend analysis or set theory trend analysis. However, Official Notice is taken that it is old and well known in the business art to use least-squared, linear trend analysis or set theory trend analysis for forecasting purposes. Therefore, the same rejection applied to claim 3 regarding the trend analysis missing limitation is also made in claim 5.

As per claims 27 and 45, Shkedi teaches:

The system as recited in Claim 26, but fails to teach wherein the payload manager generates future inventory payload data by applying a forecasting method. However, Thurston teaches a system, which forecast advertisements requests based upon users' historical activities (see page 8, lines 13-16). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Shkedi would use the users' historical activity request, as taught by Thurston

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in order to forecast the delivery of advertisements to said users for the purpose of optimizing said delivery.

7. Claims 14, 15, 31, 32, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shkedi (US 2005/0246231).

As per claims 14, 31 and 42, Shkedi teaches:

The method as recited in Claim 1, but fails to teach wherein each array in the set of array includes 168 array elements. However, Official Notice is taken that it is old and well known in the business art to use time references when monitoring Internet traffic. It would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Shkedi would create users' profiles vectors based upon time references (i.e. hour of the day) in order to better target advertisements based upon the time of the day.

As per claims 15, 32 and 43, Shkedi teaches:

The method as recited in Claim 14, but fails to teach wherein the array elements are representative of 1 hour increments. However, the same argument made in claim 14 regarding this missing limitation is also made in claim 15.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

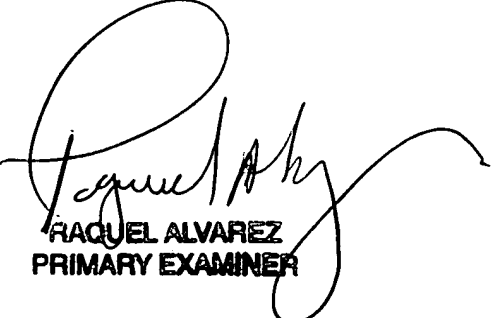
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
June 21, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER